

NELLIE E. COLLEY

IBLA 82-1275

Decided October 19, 1982

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application U 51194.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications:  
Filing

An oil and gas lease application, Form 3112-1 (June 1980), is not completed in accordance with 43 CFR 3112.2-1(a) or the instructions on the application itself where questions (d) through (f), dealing with other parties in interest, assignments, and multiple filings, are left unanswered.

APPEARANCES: Nellie E. Colley, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Nellie E. Colley has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated July 28, 1982, rejecting her noncompetitive oil and gas lease application, U 51194, for failure to complete properly her simultaneous oil and gas lease application form. Appellant's application was drawn with first priority for parcel number UT 46 in the simultaneous oil and gas lease drawing held for the May 1982 filings.

The basis for the BLM decision was appellant's failure to answer the questions on the back of the application, items (d), (e), and (f), relating to other parties in interest, assignments, and multiple filings.  
1/

---

1/ Items (d) through (f) are a series of questions, each of which is followed by boxes to be checked "Yes" or "No" in response. The questions are:

"(d) Does any party, other than the applicant and those identified herein as other parties in interest, own or hold any interest in this application, or the offer or lease which may result?"

In her notice of appeal, appellant adduces no reasons for her failure to complete the blanks for questions (d), (e), and (f).

[1] The applicable regulation, 43 CFR 3112.2-1(a), provides in relevant part: "An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart." (Emphasis added.) The application form clearly contemplates that items (d) through (f) would be checked on the application itself. Indeed, the introductory words to items (a) through (g) are as follows: "UNDERSIGNED CERTIFIES AS FOLLOWS (check appropriate boxes)."<sup>1</sup> (Original in italics.) Small boxes appear following each item to be checked in response. Although the application contemplates that the names of other parties in interest, or amendments to one's previously filed statements of qualifications, may be submitted by attachment, the questions posed by items (d) through (f) are distinct issues.

Questions (d) through (f) are included in a list of questions on the application dealing with the applicant's qualifications to hold a lease and deal particularly with the circumstances of the execution of the application. The failure to disclose a party in interest to the lease application (question (d)) is a violation of the regulation at 43 CFR 3112.2-3, 47 FR 8545 (Feb. 26, 1982); the assignment of an interest in the lease offer (question (e)) prior to lease issuance or lapse of 60 days after determination of priority is a violation of 43 CFR 3112.4-3; and any interest of the applicant in more than one application for the same parcel (question (f)) disqualifies the applicant under 43 CFR 3112.6-1(c). Although the Secretary of the Interior has discretion whether to issue an oil and gas lease for lands not within a known geologic structure of a producing oil or gas field, he is required by statute, 30 U.S.C. § 226 (1976), to issue the lease to the first qualified applicant therefor. Udall v. Tallman, 380 U.S. 1, 4 (1965). The Secretary is entitled to require such information as it is necessary to ensure that an applicant for a lease is qualified. Alfred R. Sonsini, 64 IBLA 82 (1982); see Ken Wiley, 54 IBLA 367 (1981). The questions on the application form serve that purpose. The failure of the applicant to check an answer to each question creates a serious defect in the certification required by the application. Jake Huebert, 59 IBLA 179 (1981).

It is irrelevant that appellant may not have intended, by failing to answer questions (d) through (f) on the application form, to adversely affect

---

fn. 1 (continued)

"(e) Does any agreement, understanding, or arrangement exist which requires the undersigned to assign, or by which the undersigned has assigned or agreed to assign, any interest in this application, or the offer or lease which may result, to anyone other than those identified herein as other parties in interest?"

"(f) Does the undersigned have any interest in any other application filed for the same parcel as this application?"

The introductory words to items (a) through (g) are as follows: "UNDERSIGNED CERTIFIES AS FOLLOWS (check appropriate boxes)."<sup>1</sup> (Original in italics.)

the integrity of the drawing. The information required under questions (d), (e), and (f) is part of the certification of qualifications required of all applicants for oil and gas leases. William J. McGrath, 62 IBLA 110 (1982). Strict compliance with the regulations governing the drawing, 43 CFR 3112, is enforced to protect the rights of the second and third qualified applicants. Bonita L. Ferguson, 61 IBLA 178 (1982); Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), *aff'd*, 544 F.2d 1067 (10th Cir. 1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

C. Randall Grant, Jr.  
Administrative Judge

Newton Frishberg  
Administrative Judge  
Alternate Member

